

§ 7.42 Enforcement of EEOC final decisions.

(a) *Petition for enforcement.* A Complainant may petition the EEOC for enforcement of a decision issued under the EEOC's appellate jurisdiction. The petition shall be submitted to the Office of Federal Operations. The petition shall specifically provide the reasons that led the Complainant to believe that the Department is not complying with the decision.

(b) *Referral to the EEOC.* Where the Director, Office of Federal Operations, is unable to obtain satisfactory compliance with the final decision, the Director shall submit appropriate findings and recommendations for enforcement to the EEOC, or, as directed by the EEOC, refer the matter to another appropriate Department.

(c) *EEOC notice to show cause.* The EEOC may issue a notice to the Secretary that the Department has failed to comply with a decision and to show cause why there is noncompliance. Such notice may request the head of the Department or a representative to appear before the EEOC or to respond to the notice in writing with adequate evidence of compliance or with compelling reasons for non-compliance.

(d) *Notification to complainant of completion of administrative efforts.* Where the EEOC has determined that the Department is not complying with a prior decision, or where the Department has failed or refused to submit any required report of compliance, the EEOC shall notify the Complainant of the right to file a civil action for enforcement of the decision pursuant to title VII, the ADEA, the Equal Pay Act or the Rehabilitation Act and to seek judicial review of the Department's refusal to implement the ordered relief in accordance with the Administrative Procedure Act (5 U.S.C. 701 *et seq.*), and the mandamus statute (28 U.S.C. 1361), or to commence new proceedings in accordance with the appropriate statutes.

§ 7.43 Settlement agreements.

(a) The Department shall make reasonable efforts to voluntarily settle complaints of discrimination as early as possible in, and throughout, the administrative processing of complaints, including the pre-complaint counseling

stage. These efforts shall include ADR. Any settlement reached shall:

- (1) Be in writing;
- (2) Identify the claims resolved;
- (3) Be signed by both parties and/or their designees; and
- (4) Otherwise comply with 29 CFR part 1614.

(b) Any settlement agreement knowingly and voluntarily agreed to by the parties, reached at any stage of the complaint process, shall be binding on both parties. Final action that has not been the subject of an appeal or civil action shall be binding on the Department. If the Complainant believes that the Department has failed to comply with the terms of a settlement agreement or decision, the Complainant shall notify the Director of EEO, in writing, of the alleged noncompliance within 30 days of when the Complainant knew or should have known of the alleged noncompliance. The Complainant may request that the terms of the settlement agreement be specifically implemented or, alternatively, that the complaint be reinstated for further processing from the point processing ceased.

(c) The Department shall resolve the matter and respond to the Complainant, in writing. If the Department has not responded to the Complainant, in writing, or if the Complainant is not satisfied with the Department's attempt to resolve the matter, the Complainant may appeal to the EEOC for a determination as to whether the Department has complied with the terms of the settlement agreement or final decision. The Complainant may file such an appeal 35 days after the Complainant has served the Department with the allegations of noncompliance, but must file an appeal within 30 days of the Complainant's receipt of the Department's determination. The Complainant must serve a copy of the appeal on the Department and the Department may submit a response to the EEOC within 30 days of receiving notice of the appeal.

§ 7.44 Interim relief.

(a) When the Department appeals and the case involves removal, separation, or suspension continuing beyond the date of the appeal, and when the EEOC